6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2020-0711; FRL-10019-24-Region 7]

Air Plan Approval; Kansas; Removal of Kansas City, Kansas Reid Vapor Pressure Fuel Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revision to the Kansas State Implementation Plan (SIP), submitted by the Kansas Department of Health and the Environment (KDHE) on December 9, 2020. The proposed revision removes the Kansas City, Kansas seven pounds per square inch Reid Vapor Pressure (RVP) Fuel requirement which required gasoline sold in the Kansas City, Kansas area to have a seven pounds per square inch Reid Vapor Pressure from June 1 to September 15. The rest of the state is subject to the Clean Air Act (CAA) nine pounds per square inch Reid Vapor Pressure from June 1 to September 15. If approved the Kansas City, Kansas area would be subject to the Clean Air Act Reid Vapor Pressure Fuel requirement. In addition, EPA anticipates issuing a separate proposal for the Missouri side of the Kansas City metro area.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register].**

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2020-0711 to https://www.regulations.gov. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to https://www.regulations.gov/, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jed Wolkins, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7588; email address: wolkins.jed@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2020-0711, at https://www.regulations.gov. Once submitted, comments cannot be edited or removed from Regulations.gov. The

EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

II. What is Being Addressed in this Document?

The EPA is proposing to approve a revision to the Kansas SIP, submitted by the KDHE on December 9, 2020. The proposed revision removes the Kansas City, Kansas; Johnson and Wyandotte Counties; 7.0 Reid Vapor Pressure (RVP) Fuel requirement. The approved SIP, K.A.R 28-19-719, requires gasoline sold in the two counties to have a RVP of seven pounds per square inch (psi) or less from June 1 through September 15[1]. If the SIP revision is approved, the Kansas City, Kansas area would be subject to the CAA RVP requirement of nine psi or less from June 1 through September 15[2]. Kansas has asked EPA to remove K.A.R. 28-19-719

[1] The Kansas rule allows an additional one psi for gasoline containing 9 to 10 % ethanol.
[2] The CAA allows an additional one psi for gasoline containing up to 15 % ethanol.

Fuel Volatility from the SIP.

III. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 27, 2020 to November 4, 2020 and received eight comments. Kansas adequately responded to all eight comments, as noted in the State submission included in the docket for this action, but did not make any changes to the removal based on the comments received.

In addition, as explained below, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. Background

The EPA established a 1-hour ozone NAAQS in 1971[3]. 36 FR 8186 (April 30, 1971). On March 3, 1978, the EPA designated Johnson and Wyandotte counties (hereinafter referred to in this document as the "Kanas City area") in nonattainment of the 1971 1-hour ozone NAAQS, as required by the CAA Amendments of 1977. 43 FR 8996 (March 3, 1978). On February 8, 1979, the EPA revised the 1-hour ozone NAAQS, referred to as the 1979 ozone NAAQS. 44

[3] The 1-hour ozone NAAQS was originally promulgated as a photochemical oxidant standard. See 36 FR 8186 (April 30, 1971). In 1979, the EPA substituted the word "ozone" for "photochemical oxidant". See 44 FR 8202 (February 8, 1979). In doing so, the EPA stated that "(t)he intent of the standard (total-oxidant reduction), the control strategies, and the index of progress toward attainment (measured ozone levels) remain unchanged." Id. at 8203.

FR 8202 (February 8, 1979).

The EPA redesignated the Kansas City area to attainment of the 1979 1-hour ozone standard and approved the ozone maintenance plan on July 23, 1992. 57 FR 27936 (June 23, 1992). Pursuant to section 175A of the CAA, the first 10-year maintenance period for the 1-hour ozone standard began on July 23, 1992, the effective date of the redesignation approval.

In 1995, the Kansas City area violated the 1979 1-hour ozone standard. Kansas revised the control strategy and contingency measures in the maintenance plan, which was approved on December 30, 2002. 67 FR 66058 (October 30, 2002). The revised control strategy included K.A.R. 28-19-719, *Fuel Volatility.*

On May 2, 1997, Kansas adopted the seven and two tenths (7.2) pounds per square inch (psi) Reid Vapor Pressure (RVP) limit from June 1 to September 15[4]. EPA approved this rule into the SIP on July 7, 1997. 62 FR 36212 (July 7, 1997). Following a violation of the ozone standard for the three-year period of 1995-1997, on April 3, 2001, Kansas revised the rule to seven (7.0) psi limit from June 1 to September 15[5]. EPA approved this rule into the SIP on February 13, 2002. 67 FR 6655 (February 13, 2002.

On April 30, 2004, the EPA published a final rule in the *Federal Register* stating the 1979 ozone NAAQS would no longer

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[4] The Kansas rule allowed an additional one psi for gasoline containing 9 to 10 % ethanol. See 62 FR 36212 (July 7, 1997).

[5] The Kansas rule allows an additional one psi for gasoline containing 9 to 10 % ethanol. See 67 FR 6655 (February 13, 2002).

apply (i.e., would be revoked) for an area one year after the effective date of the area's designation for the 8-hour ozone NAAQS. 69 FR 23951 (April 30, 2004). The Kansas City Area was designated as an unclassifiable area for the 1997 8-hour ozone NAAQS, effective June 15, 2004. *See id.* However, on May 3, 2005, EPA published a final rule designating the Kansas City area as an attainment area for the 1997 8-hour ozone NAAQS based on new monitoring data. *See* 70 FR 22801 (May 3, 2005). The effective date of the revocation of the 1979 1-hour ozone standard for the Kansas City area was June 15, 2005. *See* 70 FR 44470 (August 3, 2005). Kansas achieved the required maintenance of the 1979 1-hour ozone standard in 2014.

On, December 9, 2020, Kansas requested that the EPA remove K.A.R. 28-19-719 from the SIP. Section 110(l) of the CAA prohibits EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA.

V. What is the EPA's Analysis of Kansas' SIP Request

EPA is making the preliminary determination that the ozone NAAQS is the primary focus for the noninterference demonstration required by section 110(l) of the CAA because the RVP requirements results primarily in emissions benefits for VOCs and NO_X. VOCs and NO_X emissions are precursors for ozone. NO_X emissions are precursors for particulate matter. NO_2 is a component of NO_X. There are no emissions reductions attributable

to the emissions of carbon monoxide (CO), lead and sulfur dioxide (SO_2) from RVP requirements.

In Kansas' December 9, 2020 submission the State provided a technical demonstration to support the request to remove Kansas' 7.0 psi RVP requirement from the active measures portions of the Kansas SIP. In that technical demonstration, Kansas provided Motor Vehicle Emissions Simulator (MOVES) results, modeling the emissions of VOCs and NO_x associated with changing the high ozone season RVP requirements from the state-level requirement of 7.0 psi to the federal requirement of 9.0 psi. EPA evaluated the state's assumptions and inputs used in MOVES, and EPA finds the state analysis is appropriate. Specifically, KDHE compared what the projected emissions in the year 2020 (the year the program is requested to be rescinded) would be, assuming a RVP level of 7.0 psi and 9.0 psi, respectively, in two separate modeling simulations. The comparison revealed an increase in emissions of 0.07 tons for NO_X and 0.37 tons for VOC, per ozone season day, would result from the change to the federal requirement from June 1 through September 15. While the modeling showed a slight increase in NO_X and VOC emissions resulting from the use of 9.0 psi RVP as opposed to 7.0 psi, the most appropriate analysis is whether emissions in the future years would increase and potentially interfere with maintenance of the NAAQS. The State compared actual emissions from 2017 using a RVP of 7.0 psi to emissions modelled for the years 2020 using a RVP of 9.0 psi. Table 1 below provides the results of this analysis.

Table 1—Comparative Emissions for Change to RVP				
	2017 7.0 psi RVP (tons per ozone season day)	**2020 7.0 psi RVP (tons per ozone season day)**	**2020 9.0 psi RVP (tons per ozone season day)**	**Decrease in 2020 9.0 psi RVP compared to 2017 7.0 psi RVP (tons per ozone season day)**
NO_x	29.42	22.42	22.49	6.93
VOC	19.26	16.88	17.25	2.01

As Table 1 indicates, NO_X and VOC emissions in the Kansas City Area would decrease from 2017 to 2020, even with the increase due to ozone season fuel RVP of 9.0 psi. The modeling demonstration shows the slight increase in emissions is being mitigated area-wide by a steady decrease in tailpipe emissions. This is the result of a cleaner new vehicle fleet replacing the older fleet[6] and the decrease in the sulfur content in gasoline as required by EPA's Tier 3 motor vehicle emission and fuel standards, which were implemented beginning on January 1, 2017.[7] The Kansas City, Kansas area is designated attainment/unclassifiable or attainment for the 1979, 1997,

[6] As vehicle owners purchase new vehicles, the older vehicles slowly are removed from the vehicles on the road. A used vehicle maybe purchased and driven by several owners, but eventually the older, more polluting vehicles are removed from the road. Manufacturers' fleets in 1994 are allowed 0.6 gram/mile NOx emissions. Manufacturers' fleets in 2004 are allowed 0.07 gram/mile Nox emissions. Manufacturers' fleets in 2025 will be allowed 0.03 gram/mile NOx emissions.

[7] Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards (See 79 FR 23414, April 28, 2014.)

2008, and 2015 ozone standards. While the 1979 maintenance plan is approved into the SIP, the 1979 NAAQS has been revoked for the Kansas City area. There are no other ozone maintenance plans for the Kansas City area in the SIP. The highest monitor design value in the Kansas City area is 68 parts per billion (ppb), which is below the 2015 ozone NAAQS of 70 ppb.[8] Based on the state's modeling analysis, along with air quality data, EPA is making the preliminary determination that the slight increase in NO_X and VOC emissions resulting from the use of 9.0 psi RVP fuel will not interfere with the Kansas City area's ability to maintain the ozone NAAQS, or any other applicable requirement. The EPA is making this determination based on MOVES modeling that indicates that on-road VOC and NOx emissions in 2020 with gasoline meeting the 9.0 psi RVP requirement remain below the emissions levels in 2017, a year in which the area's design value was also below the 2015 ozone standard of 70 ppb.

The Kansas City area is designated as attainment or unclassifiable for the 2006 24-hour $PM_{2.5}$, 2012 annual $PM_{2.5}$, 1971 annual NO_2, and 2010 1-hour NO_2 standards. There are no maintenance plans for any of these standards. The highest $PM_{2.5}$ design value is 79% of the standard. The highest NO_2 design value is 42% of the standard. As discussed above the area has a decrease from 2017 to 2020 NO_x and VOC emissions. Based on this data together with air quality data, EPA is making the preliminary determination that the slight increase in NO_X and VOC

[8] Based on the most recent quality assured data design values (2017-2019). The monitor in question is on the Missouri side of the Kansas City. The highest 4th high value on the Kansas side of Kansas City was 62 ppb.

emissions in 2020 and the downward trend in on-road VOC and NOx emissions resulting from this change will not interfere with the Area's ability to maintain the any $PM_{2.5}$ or NO_2 NAAQS, or any other applicable requirement.

The Kansas City area is designated as attainment or unclassifiable for the SO_2 standards. There are no maintenance plans for any of these standards. The most recent (2017-2019) highest SO_2 design value is less than 8% of the standard. The RVP standard has no effect on SO_2 emissions. Based on this data together with air quality data, EPA is making the preliminary determination that the change will not interfere with the Area's ability to attain or maintain the SO_2 NAAQS, or any other applicable requirement.

The Kansas City area is designated as attainment or unclassifiable for the CO and lead standards. There are no maintenance plans for any of these standards. The highest CO design value is less than 18% of the standard. There is no lead monitoring in the area. The RVP standard has no effect on CO or lead emissions. Based on this data together with air quality data, EPA is making the preliminary determination that the change will not interfere with the area's ability to maintain the CO or lead NAAQS, or any other applicable requirement.

Kansas has no federal Class I areas. EPA is making the preliminary determination that the small emission increase will not interfere with reasonable progress towards natural visibility in surrounding states Class I areas that Kansas might

impact due to the small magnitude of emissions increase.

VI. What Action is the EPA Taking?

We are proposing to approve Kansas' removal of the state RVP requirement from the SIP for the Kansas City, Kansas area. As discussed above the removal of the RVP requirement will not affect the area's ability to attain or maintain any air quality standard. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, the EPA is proposing to remove provisions of the EPA-Approved Kansas Regulations from the Kansas State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal

requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: _____ _____

December 21, 2020. James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart-R Kansas

§52.870 [Amended]

2. In §52.870, the table in paragraph (c) is amended by removing the entry "K.A.R. 28-19-719" under the heading "Volatile Organic Compound Emissions".

3. In §52.873, paragraph (a) is revised to read as follows:

§52.873 Approval status.

(a) Kansas rule K.A.R. 28-19-719 was rescinded on **[insert date 30 days after date of publication in the Federal Register].**

* * * * *

[FR Doc. 2021-00179 Filed: 1/15/2021 8:45 am; Publication Date: 1/19/2021]